

DOCUMENT 3

PROGRAM DESCRIPTION

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A. Background

Statutes. The Missouri Department of Natural Resources (MDNR) is the lead implementing agency for the underground storage tank (UST) program in Missouri. MDNR has broad statutory authority to regulate UST releases under Sections 260.500 through 260.550 of the Revised Statutes of Missouri (RSMo.) and more specific authority to regulate the installation, operation, maintenance, and closure of USTs under Sections 319.100 through 319.139, RSMo., the Missouri UST Law. Additional authorities, in particular the appeals process through the Missouri Clean Water Commission, are found at Chapter 644, RSMo., the Missouri Clean Water Law.

Before the UST law was passed, MDNR relied exclusively on Chapter 260 to address releases from UST systems. Recognizing the need for more specific authorities to regulate USTs, the State passed the UST law on August 28, 1989. The UST law provides authority to promulgate technical and financial responsibility requirements for USTs and to establish a state UST insurance fund.

Regulations. Chapters 10 and 11 of the state regulations address USTs. The State's technical UST regulations (Chapter 10), which went into effect on September 28, 1990, adopted most of the federal regulatory language with several minor changes. Among these changes are the requirement for 30-day pre-notification on new installations (10 CSR 20-10.022), and a provision that allows owners and operators to self-insure for the deductibles required under the state insurance fund (10 CSR 20-11.094). The financial responsibility regulations (Chapter 11) went into effect on August 20, 1991. All substantive differences between the state and federal regulations are outlined in the Attorney General's Statement of this SPA application.

B. General Questions

1. Type of approval requested

Missouri is requesting final approval for a complete UST program, regulating both petroleum and hazardous substance USTs.

2. **Does the State have any existing agreements with Indian tribes? If so, attach agreements and briefly describe.**

There are no Indian lands in Missouri, and thus no agreements with Indian tribes regarding the regulation of USTs.

C. Program Scope

3. **Describe the UST universe covered by the state program. Include the estimated number of petroleum UST systems, hazardous substance UST systems, and other information affecting the State's regulation of this universe.**

Because Missouri has largely incorporated the language of the federal UST regulations, the scope of the state program is at least as broad as the federal scope. There are several areas where the state program is broader in scope than the federal program; these are discussed in more detail in the Attorney General's Statement.

The total UST population in Missouri as of May 2002 is 37,068 tank systems. This number includes approximately 9,624 active tank systems at 3,873 active facilities, 1,042 temporarily closed tanks, and approximately 26,402 tank systems that have been permanently closed. The vast majority of these UST systems contain petroleum products; only 390 contain hazardous substances.

MDNR data indicate that almost 99 percent of all active tank systems in the State have fully compliant leak detection systems, and that 97 percent of all active tank systems have fully complied with the 1998 upgrade requirements.

D. Organization and Structure of State Program

4. **Indicate the lead agency for facilitating communications between EPA and the State. If there is a separate agency for coordinating Trust Fund activities, indicate that here also.**

The lead implementing agency for the UST program is MDNR. The UST program is housed in the Tanks Section of the Hazardous Waste Program, which is located within the Air and Land Protection Division. The Tanks Section negotiates support services from other offices within the Division and other Divisions within MDNR. Within the Air and Land Protection Division, the Tanks Section coordinates UST program activities with the Environmental Services Program (ESP), the Enforcement Section, the Voluntary Cleanup Section, and other entities that provide lesser levels of administrative support (e.g., budget and planning staff). The Tanks Section and the Enforcement Section coordinate UST program activities with the five regional

offices within the Water Protection and Soil Conservation Division. The Tanks Section also coordinates UST program activities with the Environmental Geology Section of the Geological Survey and Resource Assessment Division, the Petroleum Storage Tank Insurance Fund (PSTIF) Board, the Attorney General's Office, the Department of Agriculture, and the Outreach and Assistance Center. See question 6 below for a more detailed discussion of the relative responsibilities of these entities.

There is no statutory provision for the Tanks Section to share UST program responsibilities with local programs. Communication between MDNR and local entities that have their own UST requirements is limited. MDNR is aware of a few local UST programs in Missouri; Health and Fire Departments in Kansas City, St. Louis, and Springfield are known to enforce some local requirements, mostly related to installations and removals. In any event, the state rules are the overriding standard that must be met. MDNR guidance and outreach suggest that UST system owners and operators check with local authorities to ensure that they are not overlooking any additional local requirements.

The central MDNR office is located in Jefferson City, while five regional offices are located in Kansas City, Macon, Poplar Bluff, St. Louis, and Springfield. In general, UST program staff from the central office fulfills the following duties:

- Perform UST facility registration, including collection of registration fees and issuance of certificates of registration.
- Track compliance with all major regulatory provisions, including operational, mechanical, and financial responsibility requirements. Program staff encourage compliance by generally coordinating site inspections and complaint investigations performed by the regions to identify violations, and working with owner/operators to address those violations.
- Track installations of new UST systems to ensure that new tank systems are properly installed, thus minimizing the likelihood of future releases. Regional office staff generally conducts inspections of new installations.
- Oversee and track upgrades of existing UST systems to ensure that all work performed on an UST system is completed properly in accordance with best practices and industry codes. Regional office staff generally conducts upgrade inspections.
- Oversee and track UST system closures to ensure that any contamination discovered at the time of closure is addressed and that the risk of future contamination is minimized. Regional office staff generally conducts closure inspections.

- Coordinate activities with, and provide oversight and guidance to, staff in the regional offices.
- Identify temporarily closed tanks and compel owner/operators to either upgrade or close them.
- Provide information to the regulated community regarding technical, financial responsibility, remediation and other regulatory requirements.
- Revise MDNR guidance documents to incorporate the most up-to-date risk-based methodologies and technologies.
- Work with enforcement and legal staff to develop orders and enforcement cases for non-compliant owners and operators.
- Maintain and continually upgrade the UST program database.
- Work with the PSTIF Board to effectively manage and track expenditures from the Fund and evaluate program performance relative to work plan targets.
- Oversee corrective actions and rank leaking UST sites to ensure that contaminated tank sites are expeditiously investigated to minimize risks to human health and the environment.
- Answer telephone inquiries from the regulated community and otherwise provide pertinent program information to the public on request.

The regional offices' chief responsibilities are to support the central office in its execution of the duties listed above. In particular, the regional offices conduct compliance monitoring through onsite inspections within their geographic areas.

Another key entity involved in the implementation of the Missouri UST program is the Missouri Clean Water Commission. The Commission, consisting of six members appointed by the Governor, was established by Chapter 644, RSMo. The Commission is instrumental to the Missouri UST program in a number of ways. First, the Commission was the body before which the public hearings on the UST rules were held and which voted to adopt the rules. Second, the enforcement appeals procedure goes through the Commission. Third, the Commission has the authority to make enforcement referrals to the Attorney General's Office (although because the Commission meets only four to six times per year, MDNR actually makes most referrals).

5. **Include a simple chart that describes the organizational structure of the complete state underground storage tank program, including all implementing agencies.**

(See attached Organizational Charts at the end of this section)

6. **Describe the procedures for coordinating the state implementing agencies.**

The MDNR UST program is administered by the Air and Land Protection Division, Hazardous Waste Program, and is primarily managed by the Tanks Section. The Tanks Section is comprised of the Closure/Technology, Remediation, Registration/Planning, and Clerical Units. As their names imply, the Closure/Technology Unit oversees UST closures and certain remedial activities arising from closures, the Remediation Unit oversees the corrective action program, and the Registration/Planning Unit oversees the registration of all UST facilities. The Tanks Section consists of 28 staff who work with staff in the five regional offices and the Enforcement Section to provide technical assistance to UST system owners and operators and enforce the UST regulations.

The Enforcement Section (within the Hazardous Waste Program) has created a Petroleum Storage Tank Enforcement Unit, consisting of seven staff who enforce the UST regulations. These staff pursue legal actions against UST system owners with serious, persistent, or continuous violations in order to compel compliance. These staff also track compliance with enforcement actions and other regulatory requirements to determine the success of the enforcement program.

The five regional offices have 15 full-time inspector positions; regional inspectors conduct both UST and LUST inspections. Each regional office has at least two inspectors. Regional inspectors are committed to conducting approximately 100 site inspections per year. Two of the seven Enforcement Section staff rotate among the regional offices to conduct additional UST inspections to address concerns related to MTBE.

The Tanks Section is responsible for coordinating the overall UST program for the State. The Tanks Section implements the preventative portion of the program to eliminate or reduce future UST-related problems, as well as the corrective action program to clean up releases and abate threats to human health and the environment. The Section's objectives are to ensure that UST system owners and operators meet all applicable registration, release detection, upgrade, responsibility, and corrective action requirements. In order to fulfill its mandate, the Tanks Section also works closely with and coordinates the activities of the entities described below.

- *Environmental Services Program.* The main UST program responsibilities of ESP are to provide support for emergency responses as needed, conduct investigations of abandoned sites, and collect and analyze samples in support of the corrective action program.
- *Environmental Geology Section.* The UST program responsibilities of the Environmental Geology Section are threefold. First, staff provide technical support to the corrective action program by providing oversight and analysis of corrective actions occurring in complex geological settings. Second, staff provide input on documents that need to be reviewed by a geologist (e.g., corrective action plans, geological assessments of sites, remediation results). Finally, staff conduct investigations at abandoned UST sites that involve complex hydrogeology.
- *PSTIF Board.* The PSTIF Board works with the Tanks Section to effectively manage and track expenditures from the Fund, and coordinates closely with Tanks Section staff on corrective action and compliance issues.
- *Attorney General's Office.* The Attorney General's Office receives referrals of enforcement cases that the Tanks Section or Enforcement Section have been unable to resolve on their own. The Attorney General's Office represents MDNR in civil actions in State court to compel compliance and assess penalties against recalcitrant violators.
- *Voluntary Cleanup Section.* The Voluntary Cleanup Section oversees and occasionally performs cleanups of releases from hazardous substance UST systems. Staff also oversee the cleanup of certain other sites where tanks are present (e.g., brownfields), employing Tanks Section guidance and standards.
- *Department of Agriculture.* The Department of Agriculture is responsible for calibrating pumps and ensuring the safety of UST facilities, and therefore potentially could obtain information that would be useful to MDNR. Conversely, MDNR records could be used to identify sites for the Department of Agriculture to inspect. Section 319.119, RSMo. states that "the department (of Natural Resources) shall, subject to appropriations, enter into an interagency agreement with the department of agriculture to authorize inspectors from the department of agriculture to conduct inspections under sections 319.100 to 319.137." To date, there has been no appropriation made to implement this provision.
- *Outreach and Assistance Center.* The Outreach and Assistance Center provides editorial and publishing support for the UST program's quarterly newsletter, and maintains a catalog of relevant guidance and technical bulletins for all of MDNR.

E. Resource Information

- 7. For each state implementing agency with responsibilities for developing, regulating, enforcing, or administering the underground storage tank program, please estimate the total budget and number of staff assigned to the underground storage tank program.**

The Missouri underground storage tank program endeavors to use its resources as efficiently and effectively as possible. There are currently 28 full-time UST/LUST positions in the Tanks Section (four positions are currently vacant), while the five regional offices have a total of 15 FTE supporting the UST/LUST program (see Table 3.1). The Enforcement Section also has five FTE that support the UST program. In addition, the UST program has access to the services of MDNR attorneys and Attorney General's Office attorneys as needed for enforcement. Finally, MDNR, through ESP, has contracts with firms that conduct emergency response and corrective action at state-lead sites.

MDNR collects a per-tank registration fee of \$75 every five years. Registration fees generate approximately \$165,825 per year, and are deposited in the UST Regulation Fund. The UST Regulation Fund is used to cover the mandatory 25 percent state match (Missouri provides a 33 percent match) of the federal UST program grant, as well as to fund staff in MDNR's regional offices.

The PSTIF is comprised of several distinct funding sources. A transport load fee of \$40 per 8,000 gallons charged on petroleum imported into the State generates approximately \$15 million annually. In addition, an annual insurance fund premium that ranges between \$100 and \$200 per tank system depending on tank construction, upgrade status, and condition generates about \$1 million annually. The PSTIF is used to finance cleanups at fund-eligible sites; salaries for about half of the Tanks Section staff; third-party administration of the fund; and the corrective action/emergency response contracts with ESP.

Federal resources also are available to the Missouri UST/LUST program. Missouri receives the annual \$187,950 EPA program grant and LUST Trust Fund cooperative agreement funding (approximately \$1 million annually). The EPA program grant is primarily used to fund preventative program staff activities in the central and regional offices. The LUST Trust Fund money is used to fund staff in the central and regional offices, as well as corrective actions at sites where the owner or operator is unwilling or unable to take action or cannot be identified.

Table 3.1: Staff in the Missouri UST Program (By Funding Source)

Note: MDNR will update these "placeholder" numbers with the most recent numbers available at the time the final SPA application is completed. ICF could not determine the exact state/federal funding breakdown by entity from the materials we have on hand.

	Federal	State	Total
Tanks Section	6 FTE	22 FTE	28 FTE
Enforcement Section	1 FTE	4 FTE	5 FTE
Regional Offices	2.7 FTE	12.3 FTE	15 FTE
Others? (e.g., ESP, Environmental Geology, Voluntary Cleanup Section, Communications & Education Office)	6 FTE	3.3 FTE	9.3 FTE
TOTAL	15.7 FTE	41.6 FTE	57.3 FTE

8. **Please provide an estimate of the administrative and implementation costs of the State's underground storage tank program on an annual basis.**

Missouri anticipates that program expenditures will range between \$5,000,000 and \$5,500,000. These estimates are based on implementation experience from prior years and an adjustment for new activities. *Note: MDNR will update these "placeholder" numbers with the most recent numbers available at the time the final SPA application is completed.*

9. **Indicate current federal, state, and local funding sources, with approximate amounts for each. Please explain any restrictions or limitations regarding these funding sources.**

See Table 3.2 below for a breakdown of these funding sources and amounts.

Table 3.2: Annual Sources of Funding for the Missouri UST Program

Funding Source	Federal	State	Total
Federal UST Program Grant (FY 02)	\$187,950	\$62,650 (33% state match)	\$250,600
Federal LUST Trust Fund Allocation (FY 02)	\$995,655	\$110,628 (10% state match)	\$1,106,283
Annual Tank Registration Fees	N/A	\$165,825	\$165,825
Petroleum Storage Tank Insurance Fund (PSTIF)	N/A	\$15,957,168	\$15,957,168
TOTAL	\$1,183,605	\$16,296,271	\$17,479,876

Note: MDNR will update these "placeholder" funding numbers with the most recent numbers available at the time the final SPA application is completed.

F. Petroleum Storage Tank Insurance Fund

In 1989, the Missouri General Assembly established the Petroleum Storage Tank Insurance Fund (PSTIF) in response to promulgation of the federal financial responsibility regulations. The primary objectives of the PSTIF are to insure owners and operators of petroleum tanks against the risks associated with a leak or spill from their tanks and to provide funding for the cleanup of certain old tank sites where tanks are no longer in use. Monies from PSTIF also are used to fund about 50 percent of the MDNR staff working in the Tanks Section.

Originally called the Underground Storage Tank Insurance Fund, the Fund began to insure owners and operators of such tanks in May 1992. Since then, the PSTIF has insured more than 3,600 UST sites and 10,000 tanks. The PSTIF provides coverage for the costs of cleaning up a release, as well as third-party property damage or bodily injury resulting from a release. A \$10,000 deductible applies to each occurrence, with a policy limit of \$1 million per occurrence and \$2 million annual aggregate. PSTIF is an EPA-approved financial responsibility mechanism within the State.

In 1995, the Missouri Legislature expanded the responsibility of the PSTIF to include cleanup of

sites where USTs had been closed and payment of ongoing costs of cleanup at insured sites where a leak/spill had occurred before the owner was insured by the PSTIF. In 1996, the scope of PSTIF was again expanded to offer insurance coverage to owners/operators of aboveground storage tanks (ASTs) and to pay for cleanup of sites where ASTs had previously operated.

PSTIF is a state agency separate from the department of natural resources with an independent Board of Trustees responsible for operation and oversight of the Fund. The Board and its staff coordinate closely with MDNR Tanks Section staff on tank information, compliance, and corrective action issues. The PSTIF Board was established in 1996 to provide general administration and oversight to ensure the proper operation of the PSTIF, including all decisions relating to payments from the PSTIF. The Board has eleven members, eight of whom are appointed by the governor, with the advice and consent of the Senate. The other three trustees are designated officials from executive branch agencies, including one from the Department of Natural Resources. The Board works to ensure that monies are used effectively to clean up the environment, that participants receive timely professional services, and that resources are used economically to maximize the benefits of the Fund.

Any owner or operator of a regulated UST may elect to participate in the Fund if she/he meets certain criteria established by the law and the Board's regulations. Compliance with leak detection and upgrade requirements is checked annually as part of the insurance renewal process.

The PSTIF is primarily financed with a fee assessed by the Board on every 8,000-gallon transport load of petroleum brought into Missouri. The Board assesses the financial soundness of the PSTIF at least once each year and determines whether it is in the best interests of the fund participants and beneficiaries to increase, decrease, or maintain the fee.

Total annual revenues are approximately \$16 million, and the Fund had a cash balance was \$37.8 million as of March 31, 2002. Since its inception, PSTIF has paid out more than \$75.1 million in claims, involving the cleanup of more than 1,200 properties. It continues to be one of the largest insurers of tanks in the country, with nearly 3,100 policies in effect at any one time.

The Board appoints an Advisory Committee to provide advice on its operations and policies. MDNR has a representative on that committee.

A Memorandum of Understanding between MDNR and the PSTIF Board of Trustees was signed on July 21, 1999. This MOU defines reporting and performance measurement requirements and ensures that coordination and communication between the two entities occurs as MDNR engages in its annual planning and budgeting process. This will ensure that environmental objectives related to tanks are clearly identified, services are provided to the public in an efficient manner, and the Board of Trustees fulfills its fiduciary responsibilities with regard to expenditures from the Fund.

Because monies from PSTIF fund about 50 percent of the MDNR staff doing tanks work, the MOU specifies an annual process for reaching agreement on MDNR work and performance

measures.

In addition to the formal interactions related to Board and Advisory Committee meetings, MDNR staff regularly meet with PSTIF staff to coordinate program activities.

G. Corrective Action Program

MDNR has in place a number of procedures for ensuring adequate corrective action that meets all applicable statutory and regulatory requirements and adequately protects human health and the environment. Missouri's regulations require that UST releases be reported promptly; MDNR relies on responsible parties, local agencies, and private citizens to ensure that all petroleum releases are reported. Early reporting and cleanup of releases is crucial to minimize the threat from such releases.

Most corrective action sites enter the system when releases are discovered at the time of closure. However, there are occasional reports by responsible parties of catastrophic releases; gasoline in basements, utility lines, or wells; free product in surface waters or observation wells; or vegetation killed by petroleum releases.

All UST releases are reported to ESP, which operates the statewide spill reporting line. ESP staff record the initial release report and evaluate the release to determine what remedial action is necessary to protect public health and the environment. If an emergency situation exists, ESP staff follow standard procedures for emergency response and initial abatement. In an emergency situation, ESP does not attempt initially to determine who is the responsible party; this usually becomes apparent upon further investigation. ESP has access to both internal and contractor resources for conducting emergency responses.

After the initial response steps have been completed, ESP then determines whether any additional steps are required to properly address the release. If further action is required, but the situation is no longer an emergency, ESP will refer the case to the Tanks Section for full corrective action. The Tanks Section oversees the site from that point forward and ensures that all required site investigation, assessment, and remediation steps are completed.

Most releases do not require any emergency response by ESP. The typical release is reported as a result of contamination discovered at closure or when an interested party conducts a Phase II that reveals the presence of petroleum contamination. These are handled initially by the Tanks Section, which oversees the site investigation and corrective action conducted by tank owners, primarily through contractors. The Tanks Section has developed extensive guidance for site assessment and corrective action. In addition, the Tanks Section in coordination with ESP, has developed a set of enforceable chain of custody procedures that must be followed, and published them in a standard operating procedures manual. These procedures ensure the integrity of samples taken from corrective action sites until they undergo laboratory analysis.

When sufficient progress is not sustained at a corrective action site or outright violations of the corrective action requirements exist, the Tanks Section usually employs conference, conciliation, and persuasion (CC&P), giving the responsible party multiple chances to return to compliance. If a responsible party does not complete any of the required steps in the corrective action process, or make adequate progress toward compliance following CC&P, Tanks Section staff will make a referral to the Enforcement Section for appropriate enforcement action. Where immediate action is required because of a threat to human health or the environment, the Tanks Section will employ a contractor, using LUST Trust Fund dollars, to conduct site assessment or corrective action as need

Missouri Department of Natural Resources

Organization Chart with Functions



Steve Mahfood
Department Director



Jeff Starke
Deputy Dept. Director

Professional Development
Human Relations
Strategic Planning
General Counsel



Sara Parker
Deputy Dept. Director
OAC Director

Special Events
Communications & Education
Environmental Assistance
Energy Center
Historic Preservation
Urban Outreach
Community Assistance



Ron Kucera
Deputy Dept. Director
for Policy

Fiscal Notes
Science & Technology
Interstate Issues
Legislation



Gary Heimericks
Director
Administrative Support

Budget
Accounting
Internal Audit
Management Information Services
General Services
Human Resources



Doug Eiken
Director
State Parks

Operation & Resource Management
Cultural Resources
Interpretation
Parks Rangers
Market Development
Six District Offices
Planning & Development
Financial & Information Resources Mgmt



Mimi Garstang, Director
Geological Survey and
Resource Assessment

Geological Survey
Water Resources
Dam & Reservoir Safety
Land Survey



James Werner
Director
Air and Land Protection

Air Pollution – air quality, asbestos, emissions, incineration, lead and ozone, open burning

Hazardous Waste – disposal information, federal facilities, illegal disposal, superfund, waste minimization

Land Reclamation – land reclamation, mining

Solid Waste Management – landfill permitting, recycling, market development, groundwater monitoring, management district grants, transfer stations, scrap tires

Environmental Services – laboratory, emergency services



Scott Totten, Director
Water Protection and
Soil Conservation

Public Drinking Water – backflow prevention, boil orders, consumer confidence reports, drinking water standards, financial assistance, lead contamination, public water supplies census, assessments

Six Regional Offices

Soil & Water Conservation – cost-share, conservation district assistance, soil survey, special area land treatment (SALT)

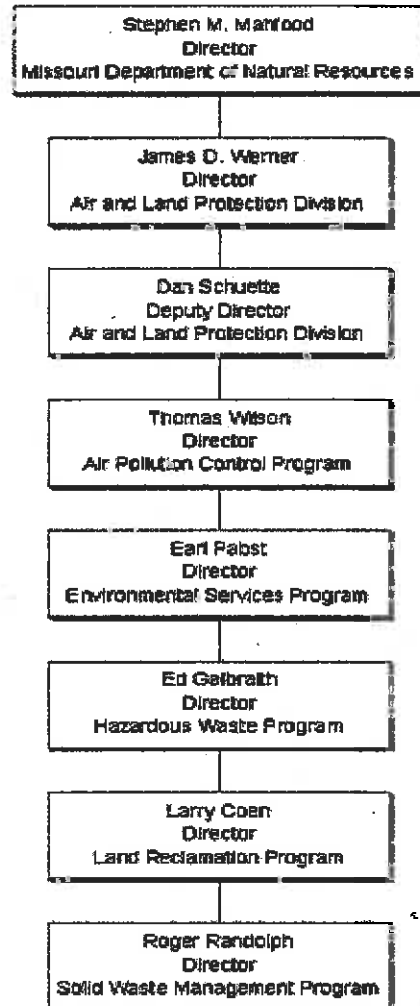
Water Pollution Control – animal wastes, compliance review, land application, non-point pollution sources, stormwater, total maximum daily loads (TMDL), wastewater, water quality standards, wellhead protection



Missouri Department of Natural Resources Intranet

Air and Land Protection Division

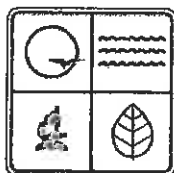
Organizational chart, feel free to move your mouse over the box to see if they have an online organizational chart.



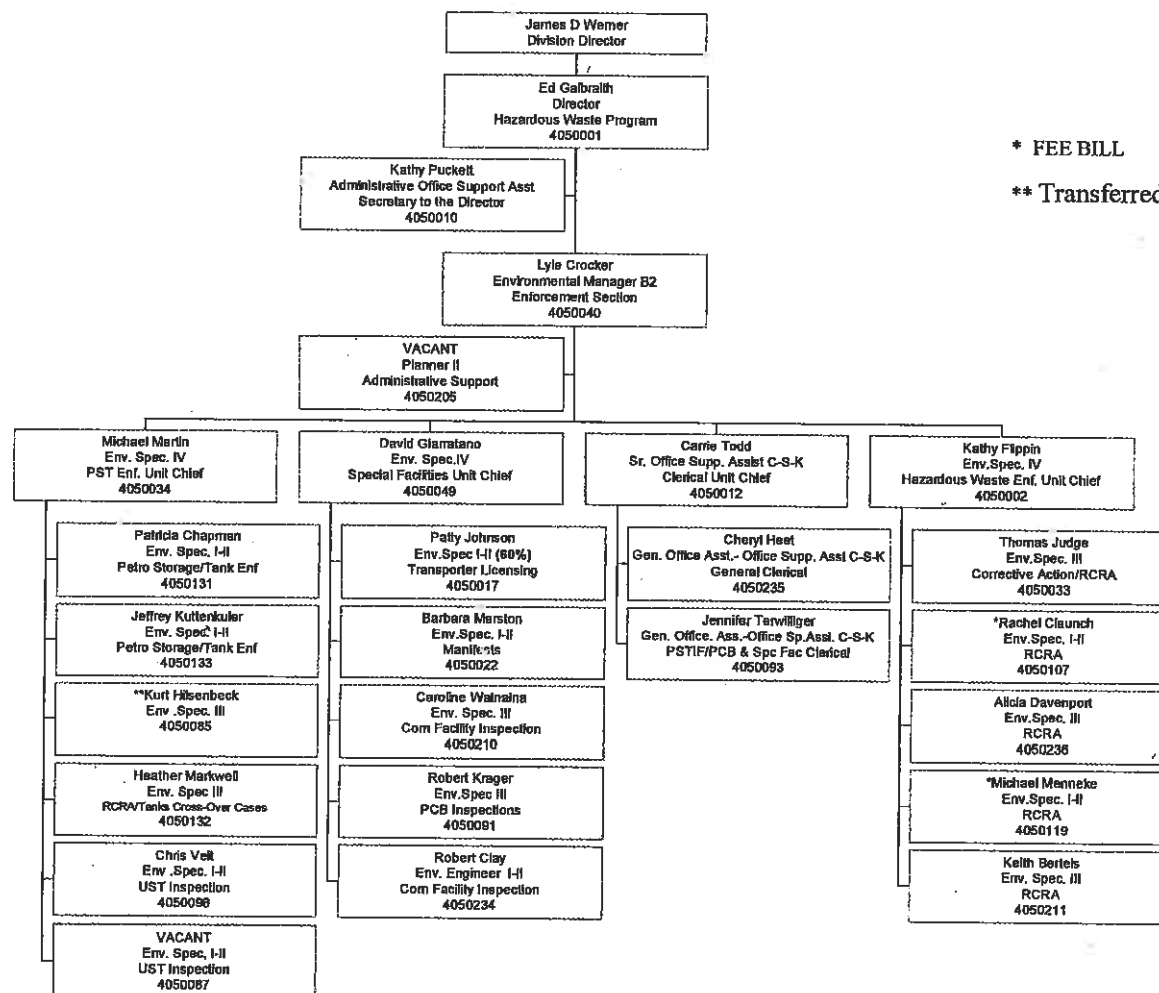
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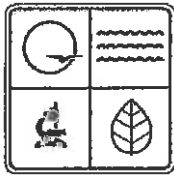


Missouri Department of Natural Resources
Air and Land Protection Division
Hazardous Waste Program - Enforcement Section
April 21, 2003

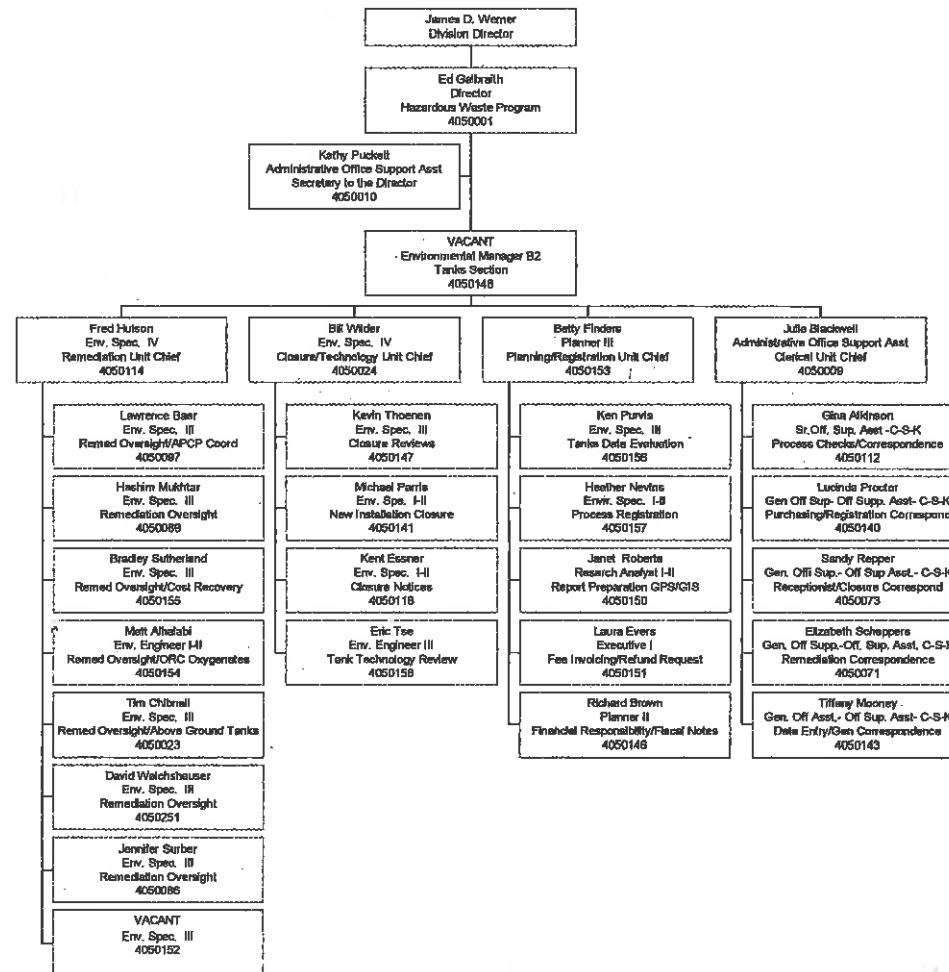


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Missouri Department of Natural Resources
Air and Land Protection Division
Hazardous Waste Program - Tanks Section
April, 2003

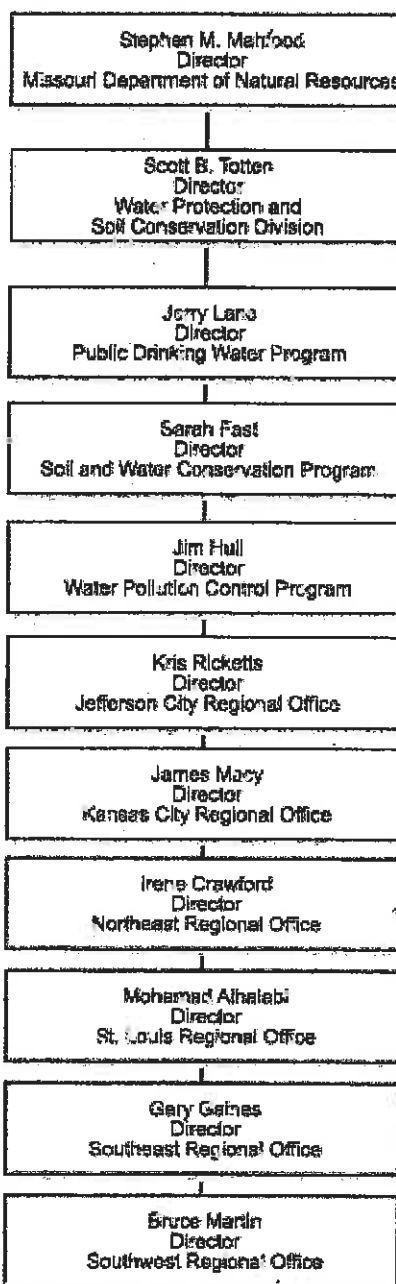




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Water Protection and Soil Conservation Division

Organizational chart, feel free to move your mouse over the boxes to see if they have an online organizational chart.



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